

McCormick, Barstow, Sheppard,  
Wayte & Carruth LLP  
Hilton A. Ryder, #54470  
*hilton.ryder@mccormickbarstow.com*  
7647 North Fresno Street  
Fresno, California 93720  
Telephone: (559) 433-1300  
Facsimile: (559) 433-2300  
Attorneys for Vitus Nutrition

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re

LAS UVAS VALLEY DAIRIES,  
A New Mexico general partnership,  
  
Debtor

Case No. 17-12356-11

Chapter 11

**NOTICE OF ADMINISTRATIVE CLAIM OF VITUS NUTRITION 11 USC 509 (b)(9)**

Notice is hereby given that Vitus Nutrition assets a Cost of Administration Claim in the amount of \$26,221.02, for product delivered to Debtor on September 6, 2017, within twenty (20) days of the filing of the above captioned case on September 15, 2017. Vitus Nutrition filed Claim No. 10-1 asserting a total claim of \$78,753.51 that included three deliveries of product, the first on August 21, 2017, for \$26,150.44 which remains a general unsecured claim; the second on September 6, 2017, which is entitled to priority as a 503(b)(9) Cost of Administration claim for \$26,221.02 and is the subject of this Notice; and the third on September 15, 2017, for \$26,440.05 which amount has been paid as an ordinary course of business Cost of Administration Claim. A copy of Claim No. 10-1 is attached to this Notice as Exhibit A.

This Notice is provided pursuant to ARTICLE V, Paragraph 5.1 and 5.2 of the confirmed plan as modified by Order Confirming Plan entered June 14, 2018, which provides for filing of this Notice within fifteen (15) days of the Effective Date of June 14, 2018.

\\\\\\

1 Dated: June 18, 2018

MCCORMICK, BARSTOW, SHEPPARD,  
WAYTE & CARRUTH LLP

2  
3  
4 By:   
5 Hilton A. Ryder  
6 Attorneys for Vitus Nutrition  
7  
8

9 99930-00011 5195604.1  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Fill in this information to identify the case:

Debtor 1 LAS UVAS VALLEY DAIRIES

Debtor 2

(Spouse, if filing)

United States Bankruptcy Court District of New Mexico

Case number: 17-12356

EXHIBIT "A"

FILED

U.S. Bankruptcy Court  
District of New Mexico

10/10/2017

Lana Merewether, Clerk

**Official Form 410**  
**Proof of Claim**

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

**Part 1: Identify the Claim**

<b>1. Who is the current creditor?</b>	<u>Vitus Nutrition</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____		
<b>2. Has this claim been acquired from someone else?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____		
<b>3. Where should notices and payments to the creditor be sent?</b>  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	<b>Where should notices to the creditor be sent?</b> <u>Vitus Nutrition</u> Name PO Box 738 Turlock, CA 95381-0738  Contact phone _____ Contact email _____	<b>Where should payments to the creditor be sent? (if different)</b> _____ Name _____ Contact phone _____ Contact email _____	
	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____		
	<b>4. Does this claim amend one already filed?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM/DD/YYYY	
	<b>5. Do you know if anyone else has filed a proof of claim for this claim?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Official Form 410

Proof of Claim

page 1

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

<b>6. Do you have any number you use to identify the debtor?</b>	<div style="display: flex; justify-content: space-between;"><div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____</div></div>
<b>7. How much is the claim?</b>	<div style="display: flex; justify-content: space-between;"><div><b>\$</b> <u>78753.51</u></div><div><b>Does this amount include interest or other charges?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A). _____</div></div>
<b>8. What is the basis of the claim?</b>	<p>Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as healthcare information.</p> <p style="text-align: center;"><u>Goods sold to Debtor</u></p>
<b>9. Is all or part of the claim secured?</b>	<div style="display: flex; justify-content: space-between;"><div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. <b>Nature of property:</b> <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i>. <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____</div></div> <p><b>Basis for perfection:</b> _____</p> <p>Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)</p> <div style="display: flex; justify-content: space-between;"><div><b>Value of property:</b></div><div><b>\$</b> _____</div></div> <div style="display: flex; justify-content: space-between;"><div><b>Amount of the claim that is secured:</b></div><div><b>\$</b> _____</div></div> <div style="display: flex; justify-content: space-between;"><div><b>Amount of the claim that is unsecured:</b></div><div><b>\$</b> _____</div><div>(The sum of the secured and unsecured amounts should match the amount in line 7.)</div></div> <div style="display: flex; justify-content: space-between;"><div><b>Amount necessary to cure any default as of the date of the petition:</b></div><div><b>\$</b> _____</div></div> <div style="display: flex; justify-content: space-between;"><div><b>Annual Interest Rate (when case was filed)</b></div><div>_____ %</div></div> <div style="display: flex; justify-content: space-between;"><div><input type="checkbox"/> Fixed <input type="checkbox"/> Variable</div></div>
<b>10. Is this claim based on a lease?</b>	<div style="display: flex; justify-content: space-between;"><div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____</div></div>
<b>11. Is this claim subject to a right of setoff?</b>	<div style="display: flex; justify-content: space-between;"><div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____</div></div>

<b>12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?</b>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. <i>Check all that apply.</i>	<p>A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.</p> <p><input type="checkbox"/> Domestic support obligations (including alimony and child support) \$ _____ under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).</p> <p><input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ _____</p> <p><input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ _____</p> <p><input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ _____</p> <p><input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ _____</p> <p><input checked="" type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(2) that applies \$ <u>52661.07</u></p>	<b>Amount entitled to priority</b>
---	--	--	------------------------------------

\* Amounts are subject to adjustment on 4/1/16 and every 3 years after that for cases begun on or after the date of adjustment.

### Part 3: Sign Below

**The person completing this proof of claim must sign and date it. FRBP 9011(b).**

**If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.**

**A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157 and 3571.**

Check the appropriate box:

- ☐ I am the creditor.
- ☒ I am the creditor's attorney or authorized agent.
- ☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- ☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this Proof of Claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this Proof of Claim and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 10/10/2017  
MM / DD / YYYY

/s/ Hilton Ryder

Signature

Print the name of the person who is completing and signing this claim:

Name	<u>Hilton Ryder</u>		
	First name	Middle name	Last name
Title	<u>Attorney</u>		
Company	<u>McCormick Barstow, LLP</u>		
Address	Identify the corporate servicer as the company if the authorized agent is a servicer		
	<u>PO Box 28912</u>		
	Number Street		
	<u>Fresno, CA 93729-8912</u>		
Contact phone	<u>559-4323-1300</u>	Email	<u>hilton.ryder@mccormickbarstow.com</u>

Customer 1001939  
 Company Code 1020  
 Name LAS UVALS VALLEY DAIRY  
 City HATCH

<input type="checkbox"/>	20141119	1000000003	DS	11/19/2016	<input type="checkbox"/>	66.00-	USD
<input type="checkbox"/>	20170915	90116230	RV	09/15/2017	<input type="checkbox"/>	26,158.64	USD
<input type="checkbox"/>	20170915	90116230	RV	09/15/2017	<input type="checkbox"/>	26,440.05	USD
<input type="checkbox"/>	20170915	90116230	RV	09/15/2017	<input type="checkbox"/>	52,661.07	USD
**						76,753.51	USD

1 McCormick, Barstow, Sheppard,  
Wayte & Carruth LLP  
2 Hilton A. Ryder, #54470  
*hilton.ryder@mccormickbarstow.com*  
3 7647 North Fresno Street  
Fresno, California 93720  
4 Telephone: (559) 433-1300  
Facsimile: (559) 433-2300  
5 Attorneys for Vitus Nutrition  
6  
7

8 UNITED STATES BANKRUPTCY COURT  
9 DISTRICT OF NEW MEXICO

10 In re

Case No. 17-12356-11

11 LAS UVAS VALLEY DAIRIES,  
A New Mexico general partnership,

Chapter 11

12 Debtor  
13

14 PROOF OF SERVICE  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF FRESNO**

3 At the time of service, I was over 18 years of age and **not a party to this action**. I am  
4 employed in the County of Fresno, State of California. My business address is 7647 North Fresno  
Street, Fresno, CA 93720.

5 On June \_\_\_, 2018, I served true copies of the following document(s) described as **NOTICE**  
6 **OF ADMINISTRATIVE CLAIM OF VITUS NUTRITION 11 USC 509(b)(9)** on the interested  
parties in this action as follows:

7 **SEE ATTACHED SERVICE LIST**

8 **BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the  
9 persons at the addresses listed in the Service List and placed the envelope for collection and mailing,  
following our ordinary business practices. I am readily familiar with this business's practice for  
10 collecting and processing correspondence for mailing. On the same day that the correspondence is  
placed for collection and mailing, it is deposited in the ordinary course of business with the United  
States Postal Service, in a sealed envelope with postage fully prepaid.

11 I declare under penalty of perjury under the laws of the United States of America that the  
12 foregoing is true and correct and that I am employed in the office of a member of the bar of this Court  
at whose direction the service was made.

13 Executed on June 18, 2018, at Fresno, California.

14  
15   
16 Amy G. Sherrick

**SERVICE LIST**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Alice Nystel Page  
United States Trustee  
PO Box 608  
Albuquerque, NM 87103

Las Uvas Valley Dairies  
c/o ASKEW & MAZEL, LLC  
George M. Moore, Esq.  
1122 Central Ave SW, Ste 1  
Albuquerque, NM 87102

Production Credit Association of Southern NM  
c/o ROGGOW LAW, LLC  
James A. Roggow, Esq.  
205 W. Boutz Rd., Bldg. 2, Ste. C  
Las Cruces, NM 88005

MODRALL SPERLING ROEHL HARRIS &  
SISK, P.A.  
Paul M. Fish, Esq.  
Douglas R. Vadnais, Esq.  
Spencer L. Edelman, Esq.  
PO Box 2168  
Albuquerque, NM 87103

BAKER DONELSON BEARMAN,  
CALDWELL & BERKOWITZ, PC  
Susan C. Mathews  
1301 McKinney, Ste 3700  
Houston, TX 77010

Gary A. Barnes  
1600 Monarch Plaza  
3414 Peachtree Road, N.E.  
Atlanta, GA 30326

Philip Mitchell, Esq.  
THE CAVANAGH LAW FIRM, P.A.  
1850 North Central Avenue  
Ste 2400  
Phoenix, AZ 85004

99930-00011 5195727.1